IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 2793 of 2003

Between:

Sri Raghavendra Plastics, Nakrekal (V&M), 503211,
Nalgonda District, represented y its Managing Partner- Soma Ramesh.

..... PETITIONER

AND

1. The Appellate Deputy Commissioner, Hyderabad Rural division, Manoranjan Buildings, III floor, M. J. Road, Nampalli, Hyderabad

2. The Commercial Tax Officer, Nalgonda Circle, Ramagiri, Nalgonda District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to may be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus declaring the orders passed by the 1st respondent in GI Nos.N/334/99, R/335/99 dt.01-10-2001 and N/355/99 dated 31-12-2001 without giving any reasonable opportunity as per the provisions of sub section 3 of Section 19 of APGST Ac in as illegal, arbitrary and violative of principles of natural justice.

Counsel for the Petitioner: MR.KUNUKU DURGAPRASAD

Counsel for the Respondent No.2: Mr. K. V. Krishna Koundinya.

Counsel for the Respondent No.1:Spl.G.P.for Taxes

The Court at the admission stage made the following O R D E R:

(Per the Hon'ble Sri Justice Bilal Nazki).

Heard learned counsel for the parties.

The appeals filed by the petitioner were rejected by the appellate authority on the ground that certain deficiencies pointed by the Office of the appellate authority were not removed. One of the deficiencies pointed out was that the petitioner had not paid admitted tax. The case of the petitioner was that he had not to pay any tax and he had an exemption from payment of sales tax under a Scheme. The certificate was not produced before the authority concerned as it was obtained by the petitioner after the appeals were rejected. The petitioner has placed a certificate before this Court, issued on 18-03-2002, whereby it is stated that petitioner had adjusted tax as tax holiday for the amounts mentioned in the certificate.

Learned counsel for the respondents, however, submits that the assessments were later on corrected as the mistake was found that the sales tax exemption granted in respect of the years 1995-96 and 1996-97 was not noted, therefore, the writ petition has become infructuous.

Learned counsel for the petitioner, however, submits that no doubt the assessment has been made, but the earlier assessment orders were not corrected, and this was not the only ground with which he had gone in appeals, he had taken other grounds in the appeals and one of the other grounds taken in the appeals was that the tax component was also added to the turnover.

In these circumstances, we think it appropriate to remand the case back to the appellate authority, who shall hear the petitioner on merits and decide the matter in accordance with law.

This order shall pertain only to the years 1995-96 and 1997-98 as the appeal filed with respect to the year 1996-97 is barred by limitation.

The writ petition is accordingly disposed of. No order as to costs.

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(BILAL NAZKI, J)

30th September, 2004.

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(S.ANANDA REDDY, J)

vrn

To

1. The Appellate Deputy Commissioner, Hyderabad Rural Division, Manoranjan Buildings, III floor, M. J. Road, Nampalli, Hyderabad

2. The Commercial Tax Officer, Nalgonda Circle, Ramagiri, Nalgonda District

3 Two CD copies.